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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

EPIC GAMES, INC.

Case No. 4:20-cv-05640-YGR-TSH

Plaintiff, Counter-defendant

**DECLARATION OF MARK A. PERRY IN
SUPPORT OF APPLE INC.'S STATEMENT
IN SUPPORT OF ADMINISTRATIVE
MOTION TO SEAL**

v.

APPLE INC.,

The Honorable Yvonne Gonzalez Rogers

Defendant, Counterclaimant

1 I, Mark A. Perry, hereby declare as follows:

2 1. I am an attorney licensed to practice in the State of California, and a member of the Bar
 3 of this Court. I am a partner at the law firm Weil, Gotshal & Manges LLP, counsel of record for Apple
 4 Inc. (“Apple”) in this case. I am familiar with Apple’s treatment of highly proprietary and confidential
 5 information based on my personal experience representing Apple. I have personal knowledge of the
 6 facts stated below and, if called as a witness, would testify competently thereto. I submit this declaration
 7 in support of Apple’s Statement in Support of Administrative Motion to Seal.¹

8 2. I am aware that the law of this Circuit allows information to be filed under seal for good
 9 cause or in certain compelling circumstances. I also understand that courts routinely seal filings where
 10 documents include a company’s trade secrets, internal codenames, confidential research and
 11 development, personally identifiable information, or other commercially sensitive information. I
 12 understand that this Court has broad latitude to prevent the public disclosure of these categories of
 13 commercially sensitive information.

14 3. Apple operates in an intensely competitive environment. Apple has serious and
 15 legitimate concerns that competitors will be quick to capitalize on any release of Apple’s highly sensitive
 16 information in order to gain competitive advantage. As such, Apple takes extensive measures to protect
 17 the confidentiality of its information.

18 4. Apple has carefully reviewed Epic Games, Inc.’s Administrative Motion to Consider
 19 Whether Another Party’s Material Should Be Sealed Pursuant to Civil Local Rule 79-5 (“Epic’s
 20 Motion”) (Dkt. 1366), and now proposes to partially seal information therein that, if disclosed, could
 21 violate Apple’s privilege claims.

22 5. Apple seeks to partially seal Plaintiff’s Opposition to Apple Inc.’s Motion to Strike
 23 Testimony (Dkt. 1365) (“Epic’s Opposition”). Epic’s Opposition contains statements that reflect
 24

25 1 Courts in the Ninth Circuit routinely grant motions to seal based on declarations of counsel. See,
 26 e.g., *In re Apple Securities Litigation*, 19-cv-02033-YGR, Dkt. 223 (N.D. Cal.); *In re Qualcomm Litig.*,
 27 No. 17-cv-00108-GPC, Dkt. 398-1 (S.D. Cal. Mar. 26, 2018); *Avago Techs. U.S. Inc. v. Iptronics Inc.*,
 28 No. 10-cv-02863-EJD, Dkt. 544 (N.D. Cal. Apr. 3, 2015); *Cisco Sys., Inc. v. OpenTV Inc.*, No. 13-cv-
 00282-EJD, Dkt. 76 (N.D. Cal. Oct. 8, 2013). If the Court deems this declaration insufficient, Apple
 respectfully requests that it be permitted to file a further declaration supporting filing under seal.

1 testimony Apple has moved to strike on the basis of attorney-client privilege which, if revealed, would
 2 invade Apple's privilege (Dkt. 1328). This testimony should be sealed pending resolution of Apple's
 3 Motion to Strike. Apple has narrowly-tailored its sealing request as to maximize the public's access to
 4 court documents without jeopardizing Apple's privilege claims. The remainder of Epic's Opposition
 5 remains unredacted.

6. Below is a chart detailing the portions of the document sealable for the reasons explained
 7 herein, as well as in Apple's statement.

8 Portion of Document 9 Sought to be Sealed	10 Document Title	11 Reason to Seal
12 Pages 1, 2, 3, 4, 5, 6, 7, 8, 13 10, 11, 13	14 Epic's Opposition	15 Apple previously moved to 16 strike as privileged. <i>See</i> 17 Dkt. 1328.

18 Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and
 19 correct. Executed this 24th day of March 2025, in Washington, D.C.

20 Dated: March 24, 2025

21 Respectfully submitted,

22 By: s/ Mark A. Perry

23 Mark A. Perry